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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,341	11/03/2003	Anthony G. Deering	GDA2403	2512
44088	7590	06/24/2005	EXAMINER	
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 06/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,341

Applicant(s)

DEERING ET AL.

Examiner

Cynthia F. Collado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a quick release mud flap assembly " in line 1 and "a floor rail of a vehicle" in lines 2 and 14 is unclear. In order to continue examination of the case, examiner assumes "a quick release mud flap assembly" is correct. Claim 1 is being considered as such.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 rejected under 35 U.S.C. 102(b) as being anticipated by Adrian'628 (US Patent No 6,116,628).

Adrian discloses a flexible panel having a bottom end, a top end, a pair of side edges, a first side and a second side (see figure 1, element 10), a rigid bracket being

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attached to and extending along a length of said top end (see figure 6, element 28), a plurality of clamps, each of said clamps being attached to said bracket and extending upwardly away therefrom (see figure 3, element 38), each of said clamps including an actuator for selectively opening or closing said clamps; wherein each of said clamps are closed when said actuators (see figure 3, element 24), are in a downward position located generally adjacent to said bracket and open when said actuators are spaced away from said brackets, each of said clamps being selectively coupled to the floor rail and a locking device assembly for selectively locking said actuators in said downward position.

Referring to claim 2, Adrian discloses said bracket having a central portion and a pair of arms, said central portion abutting said top end and each of said arms abutting one of said first and second sides (see figure 7, element 70).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3,4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adrian'628 (US Patent No 6,116,628).

The Adrian reference shows the claimed invention of claim 3 except for the mud flap holder including a plurality of clamps including at least three clamps spaced from each other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the three clamps separate, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works* 150 U.S. 164 (1893). One would be motivated to include mud flap holder including a plurality of spaced mud flap support clips therefor if one portion becomes damaged the entire clip would not have to be replaced.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adrian'628 (US Patent No 6,116,628) in view of Arenhold'868 (US Patent No 5,048,868).

Adrian discloses a flexible panel having a bottom end, a top end, a pair of side edges, a first side and a second side (see figure 1, element 10), a rigid bracket being attached to and extending along a length of said top end (see figure 6, element 28), a plurality of clamps, each of said clamps being attached to said bracket and extending upwardly away therefrom (see figure 3, element 38), each of said clamps including an actuator for selectively opening or closing said clamps; wherein each of said clamps are closed when said actuators (see figure 3, element 24), are in a downward position

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located generally adjacent to said bracket and open when said actuators are spaced away from said brackets, each of said clamps being selectively coupled to the floor rail and a locking device assembly for selectively locking said actuators in said downward position.

Adrian lacks the teaching of an elongated member having a plurality of spaced apertures Extending there through a plurality of threaded posts, each of said posts being attached to, and extending outwardly from a first of said arms, each of Said post s being positioned for extending into one of said Apertures; a plurality of fasteners, each of said fasteners being removably coupled to one of said posts, wherein said elongated member May be selectively mounted on and secured to said posts such That said actuators are positioned between said elongated Member and said bracket.

Arenhold discloses of an elongated member having a plurality of spaced apertures Extending there through (see figure 2, element 6), a plurality of threaded posts, each of said posts being attached to, and extending outwardly from a first of said arms, each of Said post s being positioned for extending into one of said Apertures (see figure 2, element 11), a plurality of fasteners, each of said fasteners being removably coupled to one of said posts, wherein said elongated member May be selectively mounted on and secured to said posts such That said actuators are positioned between said elongated Member and said bracket (see figure 2, element 12).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


US Patent No. 5,048,868 issued to Arenhold teaches Mud flap attachment device

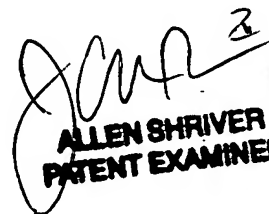
US Patent No.6, 116,628 issued to Adrian teaches Mud flap holder apparatus

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)272-8315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


6/13/05


6/22/05
ALLEN SHRIVER
PATENT EXAMINER